

Amendment and Response
Serial No.: 10/674,174
Confirmation No.: 1946
Filed: 29 September 2003
For: CLOSURE SYSTEM AND METHOD OF MANUFACTURE

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Remarks

The Office Action mailed 15 March 2006 has been received and reviewed. Claims 1, 15, 31, and 43 having been amended and new claim 44 having been added, the pending claims are claims 1-3, 7-15, and 29-44.

Both the amendments to the Specification and the amendment of claims 1, 15, 31, and 43 rectify an obvious error, with support for the amendments provided in the specification at, e.g., page 2, lines 1-4, page 6, lines 26-27 and 31-32, and in Figure 1.

Claims 1 and 15 have also been amended to recite bonding tape adhesively positioned and welded to the second major surface of the base tab. Support for this amendment may be found in the specification, for example, at page 7, lines 25-27.

Support for new claim 44 may be found in the claims as filed and in the specification at, for example, page 6, lines 26-27 and 61-62, and at page 7, lines 15-20.

Reconsideration and withdrawal of the rejections in view of the amendments and comments made herein are respectfully requested.

The Amendments to the Specification and to Claims 1, 15, 31, and 43

Applicants respectfully point out that claims 1, 15, 31, and 43, as well as the amended passages of the specification (which paraphrase claims 1, 15, 31 and 43 as originally presented), describe an overlap region in which a portion of the first major surface of the carrier tab faces the second major surface of the base tab. As was further recited, bonding tape is attached to the second major surface of the base tab adjacent the overlap region and is also attached to the first major surface of the carrier tab, wherein the inner edge of the carrier tab is located between the bonding tape and the second major surface of the base tab. Rather, the claims and the portions of the specification amended herein should have indicated that the bonding tape is attached to the second (not the first) major surface of the carrier tab (as indicated in the amendments presented herein).

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Support for these amendments may be found in the application as filed at, e.g., Figure 1 and page 6, lines 26-27 and 31-32 of the specification, where it is indicated that the bonding tape is attached to the major surfaces 12 and 22, and that item 22 is the second major surface of the carrier tab. Thus, the proposed amendments do not constitute new matter.

It is further asserted, in consideration of the rejections and comments made by the Examiner during prosecution of this application, that the claims and specification as amended herein conform to the Examiner's interpretation of the present invention.

Entry and consideration of the above amendments are respectfully requested.

The 35 U.S.C. §103 Rejections

Claims 1-3, 7-15, and 29-43 were rejected under 35 U.S.C. §103(a) as being unpatentable over European Patent Document EP 0 669 121 A1 in view of Dilnik et al. (U.S. Patent No. 5,656,111). Applicants respectfully traverse this rejection.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art references must teach or suggest all the claim limitations. See M.P.E.P. § 2143. Applicants respectfully assert that EP 0 669 121 A1, in combination with Dilnik et al., does not render claims 1-3, 7-15, and 29-43 obvious.

Claims 29-43

Independent claims 31 and 43 both recite a closure system that includes an overlap region in which a portion of the first major surface of the carrier tab faces the second major surface of the base tab such that the outer edge of the base tab is located between the inner and outer edges of the carrier tab, wherein the first major surface of the carrier tab and the second

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major surface of the base tab are not attached to each other within the overlap region. Dependent claims 29 and 30 both recite similar features, but depend, respectively, from claims 1 and 15. Applicants respectfully submit that this feature is not taught or suggested by either EP 0 669 121 or Dilnik et al. As a result, a *prima facie* case of obviousness of claims 29-43 has not been presented.

In support of the rejection of claims 29-43, it was asserted in the Office Action that "[t]he first major surface of the carrier tab and the second major surface of the base tab are not attached to each other within the overlap region (Figs. 1-3)." Office Action, p. 5 (March 15, 2006). It was asserted that "the use of an adhesive on the overlap portion [between the carrier tab 40 and the base tab 90] is not necessary because as disclosed by EP '121 the bonding tape element [74] is the element joining the carrier tab and the base tab." Office Action, p. 6 (March 15, 2006). Applicants respectfully disagree with these assertions.

After further review of EP '121, Applicants note that it does teach that "the release tape 74 may *optionally* overlap and adhesively bond to an intermediate section of the substrate member 48" which "provides for a *Y-bond* which can *strengthen* the assembly and attachment of tape fastener 44 to the section of diaper 20 that is clamped between release tape 74 and factory-bond region 50 of tape substrate member 48." EP '121, col. 24, lines 1-12 (emphasis added). As a result, although it is asserted in the Office Action that any attachment between the carrier tab 44 and the base tab 90 in EP '121 is not necessary because the bonding tape (release tape) 74 joins the carrier tab 44 to the base tab 90 is mistaken.

As noted in the portion of EP '121 reproduced above, the release tape 74 may only "optionally overlap and adhesively bond" to the base tab 90 (i.e., the substrate member 48). In other words, the release tape 74 is not required to attach the carrier tab 44 to the base tab 90. As a result, another bond must exist that holds the carrier tab 44 to the base tab 90 because the absence of such a bond would result in failure of the invention to function. That other bond is provided between the carrier tab 44 and the base tab 90 as indicated by the passage noting that

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the addition of the release tape 74 "provides for a Y-bond which can strengthen the assembly and attachment of tape fastener 44 to the section of diaper 20 that is clamped between release tape 74 and factory-bond region 50 of tape substrate member 48." EP '121, col. 24, lines 8-12. Thus, an overlap region wherein the first major surface of the carrier tab and the second major surface of the base tab are not attached to each other within the overlap region, as recited in Applicants' claims 29-43 is not taught or suggested by the cited references.

For at least the reasons presented above, Applicants respectfully submit that a *prima facie* case of obviousness has not been established with respect to claims 29-43 over EP '121 in view Dilnik et al. Reconsideration and withdrawal of the obviousness rejection of claims 29-43 are, therefore, respectfully requested.

Applicants note that it was indicated in the Office Action (at page 6, lines 17-19) that Applicant has failed to provide any criticality as to why the feature discussed above is considered as the allowable subject matter of the invention. Applicants respectfully submit that because a *prima facie* case of obviousness of has not been established, Applicants are not required to provide any evidence of criticality of this feature. Applicants do, however, reserve the right to make such a showing in the future.

Claims 1-3 and 7-15

Independent claims 1 and 15, as amended herein, recite a closure system wherein bonding tape is adhesively positioned and welded to the second major surface of the base tab. This embodiment of the invention is taught in the specification at page 7, lines 25-27, wherein it is disclosed that a layer of adhesive provides "a positioning bond to position the base tab 10, carrier tab 20 and bonding tape 30 in the manufacturing process until the bonding tape 30 can be welded into place." That is, in this embodiment, the adhesive is provided merely to hold the bonding tape in position until the weld providing the securement can be made. The weld provides securement of the bonding tape to the base tab and carrier tab. However, the adhesive that

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provides the positioning bond does not necessarily play a significant part in adhesion of the bonding tape to the base tab and the carrier tab.

Dilnik et al., on the other hand, provide an article that includes an area of substrates and interlocking hook and loop fastening material that may be attached to each other by both adhesive layer and thermal bond. Each attachment means (adhesive and thermal bonds) plays a role in the securement of the substrates and fastener, with the area of thermal bond being limited such that, e.g., the functionality of as few hooks as possible is destroyed (Dilnik et al., col. 7, line 30 to col. 8, line 32).

For example, Dilnik et al. teach that the thermal bond may cover from about 1 to about 20 percent of the bond area (Dilnik et al., col. 8, lines 16-20). Thus, the adhesive bond must necessarily provide attachment of at least the balance of the bond area (e.g., at least about 80% of the bond area). In addition, according to the disclosure of Dilnik et al., it is believed that using both adhesive and thermal bonds, the adhesive bond provides good peel adhesion while the thermal bond provides good shear adhesion (Dilnik et al., col. 7, lines 39-56). Finally, it is noted in Dilnik et al. that, in certain instances, a synergistic effect between the adhesive and thermal bonds may be seen (Dilnik et al., col. 8, lines 26-32).

In view of the above, Applicants assert that Dilnik et al. teach a system of adhesive and thermal bonding wherein both the adhesive layer and the thermal bond are relied upon for securement of the article. Thus, Applicants respectfully assert that Dilnik et al. do not provide the closure system including bonding tape adhesively positioned and welded to the base tab and carrier tab, as recited in Applicants' claims 1 and 15, as well as in claims 2, 3, and 7-14 which are dependent upon claim 1. Furthermore, since the systems of Dilnik et al. that include both adhesive and thermal bonds depend on both the adhesive and the thermal bond for securement of the item, and particularly since the thermal bonds are used on at most 20% of the bond area, the skilled person would not be motivated to modify the teachings of Dilnik et al. to provide Applicants' adhesively positioned bonding tape.

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For at least the reasons presented above, Applicants respectfully submit that a *prima facie* case of obviousness has not been established with respect to claims 1-3 and 7-15 over EP '121 in view Dilnik et al. Reconsideration and withdrawal of the obviousness rejection of claims 1-3 and 7-15 are, therefore, respectfully requested.

New Claim 44

New claim 44, which further claims Applicants' invention as disclosed in the specification and the figures, is novel and nonobvious over EP 0 669 121 A1 and Dilnik et al. for at least the reason that neither of these documents teach or suggest bonding tape adhesively attached and welded to the second major surface of the base tab, wherein the bonding tape is welded using a welding technique selected from the group consisting of chemical welding, dynamic mechanical welding, and combinations thereof, as recited in new claim 44.

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Summary

It is respectfully submitted that the pending claims 1-3, 7-15, and 29-44 are in condition for allowance and notification to that effect is respectfully requested.

The Examiner is invited to contact Applicants' Representatives, at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted

By

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CERTIFICATE UNDER 37 CFR §1.8:

The undersigned hereby certifies that the Transmittal Letter and the paper(s), as described hereinabove, are being transmitted by facsimile in accordance with 37 CFR §1.6(d) to the Patent and Trademark Office, addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 17th day of July, 2006, at 2:08 p.m. (Central Time).

By: Name: Rachel Gagliardi-Carban